IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Rev. No. 88 of 2001

Date of decision: 13.7.2007

Sukhwinder Singh **Petitioner**

Versus

State of H.P. **Respondent**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr.Sanjay Dutt Vasudeva, Advocate

For the Respondent :Mr. R.M.Bisht, Deputy Advocate General.

Deepak Gupta, J.

This petition is directed against the judgment of the learned Additional Sessions Judge (I), Kangra at Dharamsala in Criminal Appeal No. 31 of 2000, decided on 7.7.2001 whereby he has affirmed the judgment of the learned Chief Judicial Magistrate, Una, who convicted the petitioner of having committed offences punishable under Sections 279/304-A IPC and has sentenced him to undergo simple imprisonment for one year and fine of Rs. 3,000/- for the offence under Section 304-A IPC and

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

for a period of six months and fine of Rs. 1,000/- for the offence under Section 279 IPC.

Brief facts giving rise to the present case are that on 24.9.1997 the petitioner was driving tempo bearing No. PB-10R-9715 on his way from Una to Mehatpur. According to the prosecution at a place called Behdela, the petitioner was driving the tempo at a very high speed and crushed to death a school going girl. This accident was witnessed by two persons, PW-1 Ashok Kumar and PW-2 Madan Lal. According to Ashok Kumar (PW-1) the tempo was being driven at a high speed and crushed the young girl Neeru Bala who was walking to her school on the extreme left of the road. The girl died on the spot and the accused fled away from the spot with his tempo. In cross examination it has been suggested to him that buses are parked near the school and that the girl suddenly came from behind one of the buses and tried to cross the road and did not see the tempo and, therefore, was hit by the tempo. This clearly shows that the accident is admitted. It is apparent that the petitioner knew that there was a school at the spot. It was, therefore, his duty to have been even more careful.

PW-2 Madan Lal runs a shop near the site of the accident. He has also witnessed the accident and according to him the tempo was in a very high speed when it crushed the small girl. Surprisingly, no suggestion has been put to this witness that the accident occurred when the buses had stopped and the girl was coming from behind the bus. It is clear that the defence of the petitioner is not consistent.

The accident is not denied. The death of the girl is also not denied. Both the courts below, on appreciation of evidence, have come to the conclusion that the accident occurred due to the negligence of the petitioner.

I have gone through the evidence and agree with the findings of both the courts below. There is no mis-appreciation of evidence nor is there any jurisdictional error in the judgments. The petition is, therefore, without any merit and is dismissed accordingly.

July 13, 2007(K) (Deepak Gupta), J.